

## **IC 33-33-87**

### **Chapter 87. Warrick County**

## **IC 33-33-87-1**

### **Application**

Sec. 1. IC 33-29-1 does not apply to this chapter.

*As added by P.L.98-2004, SEC.12.*

## **IC 33-33-87-2**

### **Judicial circuit; joint appointment of magistrate**

Sec. 2. (a) Warrick County constitutes the second judicial circuit.

(b) The judge of the Warrick circuit court and the judges of the Warrick superior courts may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit and superior courts.

(c) The magistrate continues in office until jointly removed by the judge of the Warrick circuit court and the judges of the Warrick superior courts.

*As added by P.L.98-2004, SEC.12. Amended by P.L.100-2013, SEC.2.*

## **IC 33-33-87-3**

### **Establishment of superior court**

Sec. 3. There are established two (2) courts of record to be known as "Warrick superior court No. 1" and "Warrick superior court No. 2".

*As added by P.L.98-2004, SEC.12.*

## **IC 33-33-87-4**

### **Seal**

Sec. 4. Each superior court shall have a seal consisting of a circular disk containing the words "Warrick Superior Court No. 1" or "Warrick Superior Court No. 2" and a design as each court may determine.

*As added by P.L.98-2004, SEC.12.*

## **IC 33-33-87-5**

### **Force and effect of superior court actions**

Sec. 5. Each superior court's judgments, decrees, orders, and proceedings have the same force and effect and shall be enforced in the same manner as those of the circuit court.

*As added by P.L.98-2004, SEC.12.*

## **IC 33-33-87-6**

### **Repealed**

*(Repealed by P.L.201-2011, SEC.115.)*

## **IC 33-33-87-7**

### **Transfer of actions and proceedings**

Sec. 7. (a) The judge of the circuit court may, with the consent of a superior court, transfer any action, cause, or proceeding filed and

docketed in the circuit court to the superior court by transferring all original papers and instruments filed in the action, cause, or proceeding, without further transcript, to be redocketed and disposed of as if originally filed with the court.

(b) The judge of a superior court may, with the consent of the judge of the circuit court, transfer any action, cause, or proceeding filed and docketed in the court to the circuit court by transferring all original papers and instruments filed in the action, cause, or proceeding, without further transcript, to be redocketed and disposed of as if originally filed with the circuit court.

(c) The judge of a superior court may, with the consent of the judge of the other superior court, transfer any action, cause, or proceeding filed and docketed in the court to the other court to be redocketed and disposed of as if originally filed with the other court.  
*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-87-8**

#### **Sitting of judges**

Sec. 8. (a) The judge of the Warrick circuit court may, with a superior court's permission, sit and act as a judge of the superior court in all matters before the court, without limitation and without any further order in the same manner and with all the rights and powers as if the judge were an elected judge of the superior court.

(b) The judge of the Warrick superior court No. 1 or Warrick superior court No. 2 may, with the circuit court's permission, sit and to act as a judge of the circuit court in all matters pending before the circuit court, without limitation and without any further order in the same manner and with all the rights and powers as if the judge were the elected judge of the circuit court.

(c) The judge of a superior court may, with the consent of the judge of the other superior court, sit as a judge of the other court in any manner as if elected as the judge of the other court.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-87-9**

#### **Powers of judges**

Sec. 9. (a) The Warrick superior court No. 1 or Warrick superior court No. 2 may make rules for conducting the business of the court.

(b) The Warrick superior court No. 1 or the Warrick superior court No. 2 may issue warrants and issue and direct all processes that are necessary in exercising the jurisdiction conferred under this chapter. The Warrick superior court No. 1 or Warrick superior court No. 2 may make all proper judgments, sentences, decrees, and orders, issue all process, and do all acts necessary or proper to carry the jurisdiction conferred under this chapter into effect.

(c) The Warrick superior court No. 1 or the Warrick superior court No. 2 has the same power as the circuit court or a judge of the circuit court in relation to the attendance of witnesses, the punishment of contempts, and the enforcing of a court's orders. The Warrick superior court No. 1 or Warrick superior court No. 2 may administer

oaths and give all necessary certificates for the authentication of the records and proceedings of the court.

*As added by P.L.98-2004, SEC.12.*

#### **IC 33-33-87-10**

##### **Judges; term**

Sec. 10. There shall be one (1) judge of the Warrick superior court No. 1 and one (1) judge of the Warrick superior court No. 2 who shall hold office for six (6) years, beginning on the first day of January after a judge's election and until the judge's successor is elected and qualified.

*As added by P.L.98-2004, SEC.12.*

#### **IC 33-33-87-11**

##### **Judges; discipline**

Sec. 11. The judge of the Warrick superior court No. 1 and the Warrick superior court No. 2 shall be subject to all disciplinary rules promulgated by the supreme court.

*As added by P.L.98-2004, SEC.12.*

#### **IC 33-33-87-12**

##### **Election**

Sec. 12. The voters of Warrick County shall elect every six (6) years a judge for the Warrick superior court No. 1 and a judge for the Warrick superior court No. 2 at the general election.

*As added by P.L.98-2004, SEC.12.*

#### **IC 33-33-87-13**

##### **Qualifications**

Sec. 13. To be eligible to hold office as a superior court judge, a person must:

- (1) be a resident of Warrick County; and
- (2) be admitted to the practice of law in Indiana.

*As added by P.L.98-2004, SEC.12. Amended by P.L.161-2011, SEC.17; P.L.201-2011, SEC.96.*

#### **IC 33-33-87-14**

##### **Vacancy**

Sec. 14. Any vacancy occurring in the office of the judge of the superior court shall be filled by appointment by the governor in the same manner as are vacancies in the office of the judge of the circuit court.

*As added by P.L.98-2004, SEC.12.*

#### **IC 33-33-87-15**

##### **Repealed**

*(Repealed by P.L.201-2011, SEC.115.)*

#### **IC 33-33-87-16**

##### **Practice and procedure**

Sec. 16. (a) All laws and rules adopted by the supreme court enacted governing the circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the appointing of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court are applicable to and govern the superior courts.

(b) Notwithstanding subsection (a), in cases on the civil small claims docket, the following exceptions to the laws and rules described in subsection (a) apply:

(1) A defendant is considered to have complied with the statute and rule requiring the filing of an answer upon entering the defendant's appearance personally or by attorney. An appearance is considered a general denial and preserves all defenses and compulsory counterclaims that may then be presented at the trial of the cause.

(2) If at the trial of the cause the court determines that the complaint is so vague and ambiguous that the defendant was unable to determine the nature of plaintiff's claim or that the plaintiff is surprised by a defense or compulsory counterclaim raised by the defendant that the plaintiff could not reasonably have anticipated, the court shall grant a continuance.

(3) The trial must be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law, and may not be bound by the statutory provisions or rules of practice, procedure, pleadings, or evidence except provisions relating to privileged communications and offers of compromise.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-87-17**

#### **Trial by jury**

Sec. 17. Whenever a trial by jury is demanded, a judge of the superior court may call a jury from the list provided to the court, although the filing of a small claim shall be considered a waiver of trial by jury by the plaintiff. The defendant may, not later than ten (10) days after being served, make demand for a trial by jury by affidavit stating that there are questions of fact requiring a trial by jury, specifying them, and stating that the demand is intended in good faith. The court shall then cause the claim to be transferred to the regular docket and the defendant shall pay the filing fee charged for filing civil actions in circuit court. Upon transfer a claim loses its status as a small claim and is subject to all ordinary rules and procedure.

*As added by P.L.98-2004, SEC.12. Amended by P.L.118-2007, SEC.24.*

### **IC 33-33-87-18**

#### **Satisfaction of judgment**

Sec. 18. When the judgment or order in the small claims division

of the superior court is against the defendant, the defendant shall pay the judgment or order immediately or at any time and upon such terms and conditions as the judge prescribes. If the judge orders that the judgment shall be paid in specified installments, the judge may stay the issuance of execution and other supplementary process during compliance with the order. The stay may be modified or vacated by the court.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-87-19**

#### **Judgments; lien on real estate**

Sec. 19. All judgments rendered in the small claims division of a superior court shall be properly recorded in the judgment docket book of the court. The judgments are liens on real estate in the same manner as judgments in a court of general jurisdiction become liens on real estate under IC 34-55-9.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-87-20**

#### **Appeals**

Sec. 20. An appeal of a judgment from a standard small claims and misdemeanor division of a superior court shall be taken in the same manner and under the same rules and statutes and with the same assessment of costs as cases appealed from the circuit courts. The appeal in a small claims case must be commenced and perfected within thirty (30) days after the entry of judgment or the right to appeal is waived.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-87-21**

#### **Bailiff; court reporter; additional personnel**

Sec. 21. Each superior court shall appoint a bailiff, a court reporter, and the additional personnel necessary to carry out the business of the court. The duties, salaries, and terms of the bailiff and recorder shall be regulated in the same manner as provided for the circuit court.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-87-22**

#### **Location of court sessions**

Sec. 22. (a) Warrick superior court No. 1 and Warrick superior court No. 2 shall hold sessions in:

- (1) the Warrick County courthouse in Boonville; or
- (2) any other place in Warrick County as the board of county commissioners may provide.

(b) The board of county commissioners of Warrick County shall:

- (1) provide and maintain a suitable and convenient courtroom for the holding of a superior court, suitable and convenient jury rooms, offices for the judges and official court reporters, and other facilities as may be necessary; and

(2) provide all the necessary furniture and equipment for the rooms and offices of a court.

(c) The county council shall appropriate sufficient funds for the rooms, facilities, furniture, and equipment.

*As added by P.L.98-2004, SEC.12.*